

## **REMARKS**

Reconsideration of this application as amended is respectfully requested.

Claims 1-10, 16-20 and 39-44 are pending. Claims 1-10, 16, 39 and 41-43 have been amended. Support for the amendments is found in the specification, the drawings, and in the claims as originally filed. Applicant submits that the amendments do not add new matter.

### **Rejections Under 35 U.S.C. § 101**

The Examiner rejected claims 39-40 under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter. Claims 39-40 have been amended to overcome the Examiner's rejection under 35 U.S.C. § 101.

### **Rejections Under 35 U.S.C. § 103(a)**

Claims 1-10 and 16-20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,026,383 of Ausubel, ("Ausubel"), in view of U.S. Patent No. 6,415,270 of Rackson, et al., ("Rackson"), further in view of U.S. Patent No. 5,715,402 of Popolo, ("Popolo"), and further in view of U.S. Patent No. 6,178,431 of Douglas, ("Douglas")

Claims 39-44 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Ausubel, in view of Rackson, and further in view of U.S. Patent No. 4,881,178 of Holland, Jr., et al., ("Holland").

Ausubel discloses a system for conducting an auction. The system allows the price paid by bidders to be independent of their own bids, provides participants with information concerning their competitors' bids as the auction progresses, and maintains the confidentiality of high values.

Contrary to the presently claimed invention, Ausubel does not teach or suggest transforming a value used to create a first view of a Dutch auction for the originator of the auction into a first bidder comparative bid parameter value that is used to create a second view of the auction for a first potential bidder, the second view being associated with an auction item of a first type, and then transforming this value into a second bidder comparative bid parameter value that is used to create a third view of the auction for the second potential bidder, the third view being associated with the auction item of a second type that is different from the first type.

The Examiner acknowledges that “Ausubel does not explicitly disclose a Dutch auction; and a third view associated with a second auction item having a second characteristic that is different from the first characteristic” and cites Rackson and Popolo for such teaching, contending it would be obvious to combine Ausubel with Rackson and Popolo to produce the present invention (Office Action of September 27, 2004, page 4). Applicant respectfully disagrees.

Firstly, the fact that a large number of references must be combined to meet the invention is evidence of unobviousness. Secondly, even if combined, the references would not meet the claims. In particular, Rackson discloses auctioning multiple items using a Dutch format. However, Rackson does not teach or suggest transforming one of values used to create a first view of the Dutch auction for the originator of the auction into a first bidder comparative bid parameter value that is used to create a second view of the Dutch auction for a first potential bidder, and then transforming this value into a second bidder comparative bid parameter value that is used to create a third view of the Dutch auction for the second potential bidder. Thus, Rackson lacks the same features that are missing from Ausubel.

Popolo discloses a system for matching sellers and buyers of spot metals. The system permits sellers to post detailed specification of an item for sale. A buyer may bid on part or all of

an item posted and the seller may accept or reject any bid. The detailed specifications of the item may be expressed in different units of measure. Regardless of unit of measure used by a seller in posting an item, the system performs the necessary conversions to display information to an interested buyer in a unit of measure set by the buyer.

Thus, in Popolo, the item information displayed to multiple sellers may be in different units of measure. However, the actual type of the posted item does not vary between specifications of different sellers in Popolo. In the present invention, in contrast, the auction views created for a first and second bidders are different because they are associated with different types of an auction item. For example, the specification of the present application describes some embodiments of the present invention as flows:

Consider a coal auction market. All coal is not created equal. For example, coal varies in its thermal content (i.e., BTU content) as well as in its sulfur content. Buyers will be willing to pay more, all things being equal, for higher thermal content or lower sulfur content. A buyer therefore is ultimately interested in the price per unit energy (e.g., cents/Million BTU) produced when the coal is processed through their power generation unit.

Suppliers, however, typically offer coal on a price per physical measure of weight or volume (e.g., \$/ton). ... [I]n a Dutch auction for coal, prices that are originally defined in cents/Million BTU are transformed, based upon a particular supplier's coal characteristics, into \$/ton prices prior to display at a bidding supplier's computer system.

Through this transformation process, bidding suppliers are able to individually view an ongoing auction in their own context. For a bidding supplier's view, all supplies are effectively offering the same type of coal.

(Specification, page 8, line 27 through page 9, line 17).

Popolo does not teach or suggest creating different auction views for two bidders where these auction views are associated with an auction item of two different types. Accordingly, Popolo does not teach or suggest the same features of the present invention that are missing from Ausubel and Rackson. These features are also lacking from Douglas. In particular, the cited references, taken alone or in combination lack the pertinent features of the present invention that are included in the following language of claim 1:

- ... (c) for at least a first potential bidder, transforming said selected value into a first bidder comparative bid parameter value that is used to create a second view of the Dutch auction for said first potential bidder, wherein said second view is associated with ~~a first~~ an auction item of a first type; and
- (d) for at least a second potential bidder, transforming said selected value into a second bidder comparative bid parameter value that is used to create a third view of the Dutch auction for said second potential bidder, wherein said third view is associated with the auction item of a second type that is different from said first type.

Similar language is also included in independent claims 6 and 16. Thus, the present invention as claimed in claims 1, 6 and 16, and their corresponding dependent claims, is patentable over the cited references.

With respect to claim 39, Ausubel does not teach or suggest sequentially transmitting information reflective of a sequence of bid values to a set of potential bidders, the transmitting being continued until an ending value in the sequence is reached in the absence of an acceptance of posted price by these bidders, and sequentially transmitting, to another bidder, information reflective of the sequence of bid values up until a defined value preceding the ending value is reached, in the absence of an acceptance of a posted price by the other bidder. The Examiner acknowledges that “Ausubel does not explicitly disclose a Dutch auction; and sequentially transmitting information reflective of bid sequence values that continues until a second or third bid is reached” and cites Rackson and Holland for such teaching, contending it would be obvious to combine Ausubel with Rackson and Holland to produce the present invention (Office Action of September 27, 2004, pages 6-7). Applicant respectfully disagrees.

Firstly, the fact that a large number of references must be combined to meet the invention is evidence of unobviousness. Secondly, even if combined, the references would not meet the claims. In particular, Rackson discloses auctioning multiple items using a Dutch format. However, Rackson does not teach or suggest sequentially transmitting information reflective of a sequence of bid values to a set of potential bidders, the transmitting being continued until an

ending value in the sequence is reached in the absence of an acceptance of posted price by these bidders, and sequentially transmitting, to another bidder, information reflective of the sequence of bid values up until a defined value preceding the ending value is reached, in the absence of an acceptance of a posted price by the other bidder, as does the presently claimed invention. Thus, Rackson lacks the same features that are missing from Ausubel.

These features are also missing from Holland. In rejecting claims 39-44, the Examiner has cited the following description in Holland:

In accordance with a further feature of the invention, means are included for the system to recognize when it has achieved desired goals and to reward its successful classifiers by increasing their strengths so as to increase the adaptability of the system. More specifically, means are preferably included for monitoring the progress of the system using predetermined criteria of success (or failure) to trigger procedures for enhancing the adaptability of the system. For example, means may be included to monitor the success of the system in producing messages of value, and if the success rate falls below a stipulated or acceptable level, these monitoring means will activate other means which will construct new classifiers from existing classifiers and from input and/or output messages and which will assign initial strengths to these new classifiers so that they can complete with the other classifiers in producing new messages.

(Holland, page 2, lines 24-43).

Applicant respectfully submits that this citation from Holland, as well as the remaining disclosure of Holland, fails to teach sequentially transmitting information reflective of a sequence of bid values to a set of potential bidders, the transmitting being continued until an ending value in the sequence is reached in the absence of an acceptance of posted price by these bidders, and sequentially transmitting, to another bidder, information reflective of the sequence of bid values up until a defined value preceding the ending value is reached, in the absence of an acceptance of a posted price by the other bidder, as does the presently claimed invention. To the extent the Examiner maintains the present rejection, Applicant respectfully requests a more detailed explanation as to how the Holland reference teaches the above features of the present invention that are claimed in claims 39, 41 and 43.

Accordingly, the present invention as claimed in claims 39, 41 and 43, and their corresponding dependent claims, is patentable over the cited references.

Applicant respectfully requests the withdrawal of the rejection under 35 U.S.C. § 103(a) and submits that the pending claims are in condition for allowance. Applicant respectfully requests reconsideration of the application and allowance of the pending claims.

If the Examiner determines the prompt allowance of these claims could be facilitated by a telephone conference, the Examiner is invited to contact Marina Portnova at (408) 720-8300.

**Deposit Account Authorization**

It is respectfully submitted that in view of the amendments and arguments set forth herein, the applicable rejections and objections have been overcome. If there are any additional charges, please charge Deposit Account No. 02-2666 for any fee deficiency that may be due.

Respectfully submitted,

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